

Ф./ № 20

Определение

Гр. Д №

93-68

"Admiral" 200

Судебная коллегия по

yr

делам Московского городского суда в составе председательствующего
и судей *Степанов*

и судей Троцкий Р. Н.
с участием прокурора ...

И АДВОКАТОВ

заслушав в открытом судебном заседании по докладу

ДЕЛО ПО КАССАЦИОННОЙ ЖАЛОБЕ

Горюхи Олександр
сестра Олександр

πραγματο

122

решение

Секретариат районного народного суда

19
 рована,
 20
 21

районного народного суда

[illegible]

[illegible]

Зато, "Самары Твое"
 "Дер. Пылькович", "Дер.
 "Питергофская" "Дер.
 "Светлогорская" "Дер.
 "Кривой" "Дер.
 "Дер. с Пылькович и Пыль-
 кович" "Дер. Пылькович"
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 кович", "Дер. Пылькович", "Дер.
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 кович", "Дер. Пылькович", "Дер."

Продолжение к делу №

A - 2251

- 3 -

Продолжение к делу №

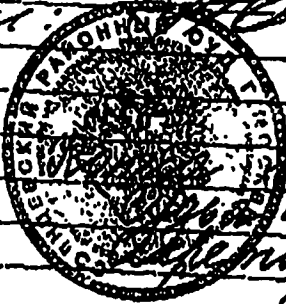
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 "Ростов" и Ростов-Свердловский
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Всперевозмещен средовой
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30 до 4000. Указательное ве-
личие сурь около 0,5
т.е. в среднем 0,5
на основе фактического
Она является конечным
расходом среднего
личности в производстве
каждого дня

- 4 -

Уголовное дело от 05.05.2004, №
 100/04-00000, продолжение к делу №
 100/04-00000, судебная коллегия
 рассмотрела апелляционную жалобу
 от 07.05.2004 № 100/04-00000
 в части оправдания по
 уголовному делу № 100/04-00000
 от 05.05.2004, рассмотрев материалы
 дела, постановила: решение
 оставить без изменения,
 постановление от 05.05.2004
 оставить без изменения,
 решение от 05.05.2004
 оставить без изменения.

Председательствующий: [подпись]
 Судья: [подпись]



Секретарь:
 [подпись]

Judge A.D. Pronyakin
Judges of the second instance G.A. Gulyaeva – Chair
R.N. Polischuk
M.V. Gornova – reporter

RESOLUTION

Presidium of the Moscow Municipal Court
Of case 44g-793 of August 22, 2002

The Presidium of the Moscow Municipal Court, chaired by G.A. Gulyaeva, including members of the Presidium, E.N. Kolyshnitsyna, V.V. Gorshkov, A.V. Paukov, E.T. Biryukova, and with the participation of M.A. Avdyukov, a prosecutor of Moscow, during the judicial session on the report of Judge O. Ksenofontova, considered a case on the objection of the prosecutor of Moscow against the decision of the Solntsevskii Inter-municipal Court of the city of Moscow of November 30, 2001 in the part of the denial of the rejection of the claim against E.N. Ivanov, and in the part of the denial of the satisfaction of the petition for retrieval of the judgment's execution and determination of the Court Chamber for Civil Cases of the Moscow Municipal Court of May 22, 2002 on the action of ZAO "Standart Trust," OOO "Inrosmet," OAO Nizhnetagilskii Metallurgical Combine" against E.N. Ivanov, "Foston Management Limited," "Omni Trusthouse limited," "Nexus Products LLC," "Davis International," "Holdex LLC," ZAO "Company Registrar "Panorama" for reclaiming property from illegal possession and the claim of "Foston Management Limited" for the retrieval of the judgment enforcement.

FOUND:

ZAO "Standard Trust," OOO "Inrosmet," OAO "Nizhnetagilskii Metallurgical Combine," filed an action against E.N. Ivanov, "Foston Management Limited," "Omni Trusthouse Limited," "Nexus Products LLC," "Davis International," "Holdex LLC," ZAO "Company Registrar "Panorama" for reclaiming property from illegal possession of the shares of OAO "Kachkanar GOK "Vanadii."

By the decision of Solntsevskii Inter-municipal Court of the city of Moscow of September 29th, 2000, shares of OAO "Kachkanar GOK "Vanadii" were written-off from the personal accounts of "Foston Management Limited" to the personal accounts of OOO "Inrosmet," OAO "Nizhnetagilskii Metallurgical Combine," ZAO "Standart Trust"; registrars shall be obliged to make corresponding entries into the register of the shareholders; the other part of the action is rejected.

By the resolution of the Solntsevskii Inter-municipal Court of the city of Moscow of February 19th, 2001, the lost documents of the proceedings were partially restored due to the loss of the case documents.

By determination of the Court Chamber for Civil Cases of the city of Moscow of March 30, 2001, the Court's decision of September 29th 2000 is overturned, and the case is directed for reconsideration to the same court by new judges.

During the new trial, "Foston Management Limited" filed a petition for the retrieval of the execution of the ruling.

By decision of Solntsevskii Inter-municipal Court of the city of Moscow of November 30th, 2001, the claim of ZAO "Standart Trust," OOO "Innosmet," OAO "Nizhnetagilskii Metallurgical Combine" against E.N. Ivanov is denied; claims against the action of "Foston Management Limited," "Omni Trust House Limited," "Nexus Products LLC," "Amber Star LLC," "Davis International," "Holdex LLC," ZAO "Company Registrar "Panorama" are left without consideration in [illegible], as this case is within the competence of the Court of Arbitration. The appeal for retrieval of the court decision presented by "Foston Management Limited" was not allowed.

With the decision of the Court Chamber for Civil Cases of the Moscow Municipal Court of May 22nd, 2002, the Court's decision in the part of the rejection of the petition of "Foston Management Limited" for the retrieval of the judgement of execution is upheld. The legality of the other part of the decision was not verified in the appellate procedure. The objection requires the reversal of the Court's decision in the part of the rejection of an action against E.N. Ivanov and in the part of the refusal to satisfy the petition for retrieval of judgement of execution and overturning of the Court Chamber ruling.

Having studied the case documents, having discussed the arguments of the objection, having heard the representative of "Davis International LLC," V.V. Valnova, the prosecutor supporting the objection, the Presidium of the Moscow Municipal Court finds the objection to be subject to partial satisfaction.

Studying the filed claims, the court assumed that the claims against legal persons are not considered in the court of general jurisdiction as the dispute is within the competence of the Court of Arbitration; on November 5th, 2001, an action for the invalidation of transactions with shares of OAO "Kachkanar GOK "Vanadii" was taken over by the Court of Arbitration of the Sverdlovsk Region.

The above-mentioned Court's decision is not disputed in this objection. According to Article 430 of the Code of Civil Procedure of RSFSR, in the event of recalling a court award that has been executed and rendering a judgment on a fully or partially rejected motion after a new trial, or a ruling of the termination of the proceedings, or leaving a claim unexamined, the respondent shall be returned everything that was obtained by the plaintiff according to the vacated judgment. (Retrieval of the execution of judgment).

The court did not consider the above cited rule of law.

Despite the fact that the court's decision of September 2000 was executed, the new trial dismissed the claim against E.V. Ivanov, the action was not allowed for the other respondents, the Court rejected the petition of "Foston management Limited" for the retrieval of the execution of judgment though there were no legal grounds.

The arguments of the Court and the Court Chamber that satisfaction of the petition for retrieval of the execution of judgment is a settlement of an economic dispute, being within the competence of the Court of Arbitration, and that the enforcement of the decision resulted in the transfer of the disputed shares to the third party under various Agreements and there is no information of their location, cannot serve as legal grounds for refusing retrieval of the execution of judgment on the case considered by the judge of general jurisdiction.

Taking into account the above-mentioned facts, the ruling of the Court Chamber and the decision of the Court in the part of the rejection of the petition for retrieval of the execution of judgment are considered illegal and subject to being overturned.

Considering the claims in the action filed against E.N. Ivanov, the Court assumed that he was a legal purchaser of the shares, the owner purchased the property for value and such property can be reclaimed only if it is lost by the owner or by a person to whom it was passed on for possession, or it is stolen, or it is removed from their possession against their will; funds and [illegible] securities cannot be reclaimed from a conscious buyer. (Article 302 Civil Code of the Russian Federation).

Without presenting sound evidence of the loss of shares, theft or removal from possession against the owner's or purchaser's will, the Court decided to reject the claim against E.N. Ivanov.

The objection argues that the above-mentioned court decision referring to the fact that the subject of the dispute is not [illegible] securities, but registered shares.

However, the action against E.N. Ivanov was rejected on other grounds that are not disputed in this objection.

Under such circumstances the objection regarding E.N. Ivanov is not subject to satisfaction.

Under Articles 329, 330, of the Code of Civil Procedure of the RSFSR, the Presidium of the Moscow Municipal Court

RULED:

To reverse the decision of the Solntsevskii Inter-municipal Court of the city of Moscow of November 30th, 2001 in the part of the rejection of the petition of "Foston Management Limited" for the retrieval of the execution of judgment and the ruling of the Court Chamber for Civil Cases of the Moscow Municipal Court of May 22nd, 2002 by sending this part of the case for reconsideration in the same Court by other judges; regarding the rejection of the claim of E.V. Ivanov, the court decision is upheld, the objection of the prosecutor of Moscow is dismissed.

Chairman of the Presidium of the Moscow Municipal Court

O.A. Egorova

Судья Пронин А.А. 258
Судья II инстанции:
Гришова Т.А. - пред.
Пашин Р.Н.
Горькова М.В. - докл.
Постановление

Президиум Московского Городского Суда

« 22 августа 2004 г.

По делу № 447-793

г. Москвы

Президиум Московского городского Суда в составе:

Председателя Президиума

и членов Президиума

Горьковой М.В.

Гришовой Т.А.

Пашин Р.Н.

Горькова М.В.

с участием прокурора г. Москвы

Горькова М.В.

рассмотрел в заседании по докладу

судьи Всеносенковой И.

ловное

гражданское

Дело по протесту

прокурора г. Москвы

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исполнительного комитета с 4.11.
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документы, относящиеся к
восстановлению

Судебный
кабинет по Чкаловскому
улице Московского района
№ 20 суда от 20 марта
2007 года. Решение суда
от 20 февраля 2007 года
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составе судьи. Судья

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Продолжив к делу +

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в главе "Ученый и его семья"

Керенскому, решенному (ново
101, исключение решение

1. Исходные данные
2. Приведенная норма
3. Средн. значение

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Иванов. Я живу в Москве.
Моя работа — это программирование.

и Циканову вв. специально
а в створенні свідоцтв
в 1911 році в 1911 році

связи с тем, что в настоящее время в связи с отсутствием

Всего в документе 170 стр.

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 boy and father and one

Родился 1909 г. в с. Сухоме, ЧССР.

1. Корень сукна и сукна
 2. Корень сукна и сукна
 3. Корень сукна и сукна

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законными и подзакон-
ными актами.

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COURT OF ARBITRATION OF THE REPUBLIC OF KALMYKIA

In The Name of the Russian Federation

DECISION

September 10, 2002

Case No. A22-1222/00/6-109

The Court of Arbitration of the Republic of Kalmykia, comprised of: D. G. Kontorova, presiding judge, and L. M. Badmaeva, judge's clerk keeping the record of proceedings, upon reviewing in a public court hearing the case on the claim of OAO Kachkanarskii gornoobogatitelnyi kombinat Vanadii [Kachkanar Vanadii Mining and Milling Complex, Open Joint Stock Company], against OOO Torgovyi dom OAO Vanadii [Vanadii Open Joint Stock Company, Trading Company LLC], OOO Poliprom, Hold X LLC, the third party ZAO Vedenie reestrov kompanii [Company Register Management, Closed Joint Stock Company] for the restitution of stock,

Found:

OAO Kachkanarskii gornoobogatitelnyi kombinat Vanadii filed with the Court of Arbitration a claim against OOO Torgovyi dom OAO Vanadii and OOO Poliprom for nullification of Agreement No. 3 dated January 18, 1999, for the purchase and sale of stock, for nullification of the transfer orders pursuant to which, nominal common stock of OAO Kachkanarskii gornoobogatitelnyi kombinat Vanadii had been written off from the personal account of the seller, as well as for restoration in the register of holders of nominal common stock of OAO Kachkanarskii gornoobogatitelnyi kombinat Vanadii of the entry regarding the existence on the personal account of OOO Torgovyi dom OAO Vanadii of the nominal common stock transferred pursuant to said purchase and sale agreement.

Pursuant to a ruling of the court dated September 10, 2001, (Case Sheet 38, Volume 3), ZAO Vedenie reestrov kompanii and Hold X LLC were summoned in the capacity of third parties without any independent claims.

A decision of the court dated March 12, 2002, sustained the plaintiff's claim.

Pursuant to a determination of the cassation division of the Federal Court of Arbitration of the North Caucasus District of July 2, 2002, the decision of the court was amended: the court nullified Agreement No. 3 of January 18, 1999 and No. 3 of January 18, 1999 [sic] entered into between OOO Torgovyi dom OAO Vanadii and OOO Poliprom, as well as the transfer orders of January 20, 2000 pursuant to which nominal common stock of OAO Kachkanarskii gornoobogatitelnyi kombinat Vanadii issue No. 62-1P-290 of July 12, 1993 in the amount of 9,759 shares and No. 62-1-1396 of June 12,

1996 in the amount of 2,298,225 shares were transferred to the personal account of OOO Poliprom.

This decision of the court, in the portion concerning the restoration of said nominal common stock of OAO Kachkanarskii GOK Vanadii in the personal account of OOO Torgovyi dom Vanadii, was revoked and this aspect of the plaintiff's claim was remanded.

The court of cassation indicated that the disputed stock had been sold to Hold X LLC, which had not been summoned in the capacity of a witness regardless of the fact that the matter under consideration had been one of restitution of assets.

Pursuant to a ruling of the court dated August 7, 2002, Hold X LLC was summoned in the capacity of a witness.

The representative of the plaintiff failed to appear at the hearing. The plaintiff filed a request that the case be heard in the absence of the representative thereof.

The representative of the defendant OOO Torgovyi dom Vanadii, I. E. Dvorenko, affirmed the claim and did not object to a restoration in the register of holders of nominal securities of OAO Kachkanarskii GOK Vanadii of the entry regarding the existence of nominal common stock of OAO [Kachkanarskii GOK Vanadii] issued in 1993 in the amount of 9,759 shares and issued in 1996 – in the amount of 2,298,225 shares, on the personal account of OOO [Torgovyi dom Vanadii].

The representative of the defendant OOO Poliprom, V. V. Volnov, did not affirm the claim and insisted that a representative of Hold X LLC, being a bona fide buyer of the stock, must be present at the hearing.

The representative of the co-defendant Hold X LLC failed to appear. Said company had been notified of the time and place of the hearing at the last address known to the court of which there is a post office notice. The case is being heard by the court in the absence of a representative of the company pursuant to Article 156, Section 3 of the Code of Arbitration Procedure of the Russian Federation.

A request was received from the third party, ZAO Vedenie reestrov kompanii, to hear the case in the absence of a representative thereof.

Upon hearing the explanations of the representatives of the defendants and upon examination of the materials of the case, the court concludes that it is necessary to sustain the plaintiff's claim.

Pursuant to a determination of the Federal Court of Arbitration of the North Caucasus District of July 2, 2002, Agreement No. 3 of January 18, 1999 and No. 3 of January 18, 1999 [sic] entered into between OOO Torgovyi dom OAO Vanadii and OOO